

DISABILITY DISCRIMINATION ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Discrimination by public authorities

New section 21D: Meaning of “discrimination”

37. New section 21D defines the meaning of discrimination for the purposes of section 21B(1). The definition of discrimination mirrors, insofar as it is possible to do so, the definition of discrimination used for service providers in section 20 of the DDA.
38. There are two forms of discrimination. The first form is set out in new section 21D(1) and is the less favourable treatment of a disabled person for a reason related to his disability, where the public authority cannot show that the treatment in question is justified under section 21D(3), (5) or (7)(c).
39. The second form of discrimination is set out in new section 21D(2). In order for this sort of discrimination to be proved, an individual must show that, to his or her detriment, the public authority has failed to comply with a duty imposed by new section 21E, and the authority must be unable to show that its failure is justified under new section 21D(3), (5) or (7)(c).